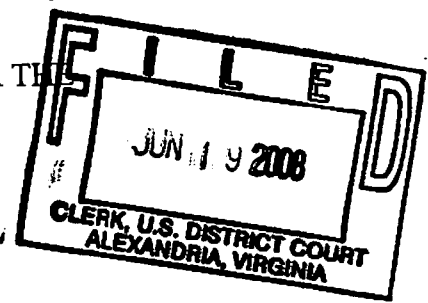


UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA

v.

BENJAMIN TYLER MOSER,

Defendant.

)
)
) CRIM. NO. 1:08mj468
)
)
)

AFFIDAVIT IN SUPPORT OF A
CRIMINAL COMPLAINT AND ARREST WARRANT

I, Sharon A. Huber, a Special Agent with the Federal Bureau of Investigation (FBI), Washington Field Division, Washington, D.C., being duly sworn, depose and state as follows:

1. Your affiant has been employed as a Special Agent of the FBI since June of 2002, and is currently assigned to the Washington Field Office, Northern Virginia Resident Agency. Prior to my current duties, I have investigated violations of federal law relating to Public Corruption, Civil Rights, Violent Street Gangs, and Criminal Enterprises. Currently, I am investigating federal violations concerning child pornography and the sexual exploitation of children. I have gained experience through training, other investigators, and in everyday work related to conducting these types of investigations. Prior to my employment with the FBI, I worked for 7 years as a federal police officer with the United States Capitol Police

2. As a federal agent, your Affiant is authorized to investigate violations of laws of the United States and is a law enforcement officer with the authority to execute warrants issued under the authority of the United States.

3. The statements contained in this Affidavit are based on my experience and background as a Special Agent, and on information provided by other law enforcement officers. I have not set forth every fact resulting from the investigation; rather, I have set forth a summary of the investigation to date in order to establish probable cause to arrest BENJAMIN TYLER MOSER ("MOSER") for violating Title 18, United States Code, Section 2422(b) Enticement and Coercion of a Minor, and Section 2423(b) Travel with Intent to Engage in Illicit Sexual Conduct.

4. For the reasons set forth below, your Affiant contends that this affidavit contains ample probable cause to believe that MOSER attempted to persuade, induce, entice, or coerce any individual who has not attained the age of 18 years to engage in any sexual activity for which he can be charged with a criminal offense, including, but not limited to Va. Code § 18.2-63 (unlawful carnal knowledge of a child between the ages of 13 and 15 years old) and Va. Code § 18.2-370 (Taking Indecent Liberties with Children). This affidavit also contains probable cause to believe that MOSER traveled in interstate commerce on June 18, 2008 with the intent to engage in sexual activity with an individual who has not attained the age of 18 years. In this case, the applicable sexual activity your Affiant believes MOSER attempted to carry out with an individual whom he believed to be a thirteen-year-old minor female, included, but is not limited to, oral sex and vaginal intercourse.

AMERICA ONLINE

5. America Online, Inc. (AOL), is an Internet Service Provider, also known as a commercial bulletin board, that offers subscribers access to electronic bulletin boards which can be read and responded to by other subscribers, known as "chat". "Chat" is real-time typewritten conversation between people, much like a verbal conversation. AOL also provides electronic

mail (E-mail) service, enabling subscribers to communicate by computer similar to writing letters and sending through normal mail. Each AOL subscriber must have access to a computer which communicates through a modem connected to telephone lines with the central computer system located in Northern Virginia. Each subscriber can communicate with other AOL users either in real-time through either chat rooms, private chat rooms or instant messages, if the other subscriber is also online, or via E-mail. Within the system, text messages and graphic images (such as photographs) can be sent to a subscriber, or to any person with an Internet e-mail address. Both text and graphics files can be saved to the computer disk drive for access and printing at any time.

6. AOL also offers an instant messaging feature called America Online Instant Messenger (AIM) that is separate from AOL chat via AOL subscriber accounts. AIM enables individuals with ISP accounts other than AOL to chat on line with either individuals using AOL subscriber accounts or other AIM users using an ISP other than AOL. The program for AIM can be downloaded from the Internet for free by any individual online.

DETAILS OF THE INVESTIGATION

7. On March 20, 2008, your Affiant was operating online in an undercover capacity as an almost 13 year old girl named Amanda, with an Internet username indicative of a 13-year-old female (hereinafter "UC-1"), in a user created AOL chat room. Your Affiant received an Instant Message (IM) from a user identified as "LOSINGTHEVIEW."

8. During the first five minutes of this initial chat, the following exchange took place:

LOSINGTHEVIEW: how old are you?

UC-1: almost 13...kewl

LOSINGTHEVIEW: almost 13, wow, you are young

UC-1: not thast young

LOSINGTHEVIEW: well I am twice your age

UC-1: that's ok I like older guys

LOSINGTHEVIEW: well that's cool, but I would be arrested

UC-1: not if no one knew

LOSINGTHEVIEW: well that's true, but first of all how do I know now that you aren't the law posing and how could I trust that you wouldn't tell anyone

UC-1: I guess you would have to trust me:)

9. Shortly later in this same chat, "LOSINGTHEVIEW" sent a photo of himself to "UC-1" via AOL email. This photo matches the North Carolina DMV photo for BENJAMIN TYLER MOSER. "LOSINGTHEVIEW" also stated that he lived in North Carolina but was moving to Washington D.C. Business records provided by AOL indicate that the username "LOSINGTHEVIEW" is registered to LEE MOSER in North Carolina. Database checks show that LEE MOSER is linked to BENJAMIN TYLER MOSER.

10. Most of the discussion with "LOSINGTHEVIEW" during this initial chat was sexual in nature. For example, he asked "UC-1": "how many times have you had sex?", and "whats the farthest you have gone with a guy?" "LOSINGTHEVIEW" also asked "UC-1" if she was wearing bra and panties, and her bra size. The following exchange also took place:

LOSINGTHEVIEW: have you ever sucked on a dick?

UC-1: no

LOSINGTHEVIEW: well u need to

11. "LOSINGTHEVIEW" also discussed a "hypothetical" meeting with "UC-1" during this initial chat.

12. On March 21, 2008, "LOSINGTHEVIEW" initiated an IM chat with "UC-1" and asked her what she was wearing. "UC-1" responded "jeans and a tight sweater" to which "LOSINGTHEVIEW" responded: "mmm sexy."

13. On March 24, 2008, "LOSINGTHEVIEW" again initiated an IM chat with "UC-1." "LOSINGTHEVIEW" asked "UC-1" if she had discussed him with any of her girlfriends. "UC-1" replied that she had discussed him with two girlfriends ages 13 and 16. Shortly later, "LOSINGTHEVIEW" wrote: "I prefer women with experience, but I am kind of interested in teaching as long as everyone is openminded and willing to try". He also asked "UC-1" when she would have time to "hang out."

14. On April 29, 2008, "LOSINGTHEVIEW" again initiated an IM chat with "UC-1." He requested a photo and your Affiant sent him an email with a photograph attached. The photograph was of a real 13 year old girl with blond hair. "LOSINGTHEVIEW" responded, "you are very cute." During this same chat, "LOSINGTHEVIEW" wrote "well I am pretty experienced, you tell me what u would like to try and we can try it". He also asked "so are u gonna bring some friends over too u play too...how many friends do u have that would come". "LOSINGTHEVIEW" further stated: "I have a big dick, so you may have to use a toy until u r ready" and "wish I could lick that little pussy right now." "LOSING THE VIEW" also asked: "so when would u be able to get away and play?"

15. During this same April 29, 2008 chat, the following exchange took place:

UC-1: u ok being my first

LOSINGTHEVIEW: awww

LOSINGTHEVIEW: yes

UC-1: will u have protection

LOSINGTHEVIEW: just as long as you don't get too attached or tell anyone because I wouldn't want to get into trouble

LOSINGTHEVIEW: yes

16. During this chat, the following exchange also took place:

UC-1: I don't wanna get caught though

LOSINGTHEVIEW: I don't either...believe me

UC-1: more times I skip....

LOSINGTHEVIEW: it would be embarrassing and it would be really bad for me

UC-1: me too:)

LOSINGTHEVIEW: we will have to think of something in order to get u away without getting caught

LOSINGTHEVIEW: would u skip school?

17. On June 17, 2008, "LOSINGTHEVIEW" initiated contact with "UC-1" and stated, "feel like sneaking out later...when can you get away. . . maybe I could just come over and play at your house." When your Affiant spoke to "LOSINGTHEVIEW" later that night, he made plans to come the following day, Wednesday, June 18, 2008. "LOSINGTHEVIEW" suggested playing strip poker and then "once we get naked we have to play bidding with things to do to each other...I would have you lick my cock". When asked about bringing protection,

"LOSINGTHEVIEW" stated "of course...but we may not get there...I am kinda large, we may have to work up to it". He also asked if "u gonna shave that pussy for me".

18. On June 17, 2008, it was determined that "LOSINGTHEVIEW" would drive from his home in Washington D.C. to meet with "UC-1" at her apartment complex in Falls Church, Virginia. "LOSINGTHEVIEW" told "UC-1" that he would arrive at around 3:00 pm after he got off work.

19. At approximately 4:20pm on June 18, 2008, "LOSINGTHEVIEW" sent "UC-1" an email stating "hi, thanks for the directions. I had a long day at work, and just got in, i am about to lose internet for a few hours, can you call me on my cell phone? 202.680.2621 Thanks sweetie, Tyler". At approximately 5:47PM, your Affiant placed a consensually recorded phone call to "TYLER". A male voice answered the phone. "AMANDA" told "TYLER" that she thought his name was "BEN" and "TYLER" responded that "BEN" was his first name but that he goes by "TYLER". "TYLER" advised that he was on the other line and asked if he could call back. "AMANDA" said she could not use a lot of minutes on her phone, so "TYLER" said he would contact her via email.

20. At approximately 7:14PM, "LOSING THEVIEW" contacted "UC-1" via e-mail and stated "well I can still come over, but I have to jump like 3 metro's so I wouldn't be therebefore 8". "LOSINGTHEVIEW" then recited the directions and verified that they could meet in a location "without anyone seeing us...as long as we are each others secret." "LOSINGTHEVIEW" stated that he would be wearing a black t-shirt, red rain jacket, gray shorts and colorful striped shoes.

21. A positive identification of "LOSINGTHEVIEW" was made when he arrived at

the West Falls Church metro at approximately 8:40pm. Surveillance teams positively identified "LOSINGTHEVIEW" as BENJAMIN TYLER MOSER. Several times MOSER appeared to be lost enroute to the meet location and therefore "AMANDA" contacted him via cell phone in an attempt to give him better directions. On the third telephone call, "AMANDA" advised MOSER to continue to walk on Route 7 West near the Mary Ellen Henderson Middle School and she would walk east and meet him. MOSER was arrested at the middle school at approximately 9:17PM. A search incident to arrest revealed that MOSER had on his person a cellular telephone, number [REDACTED], 2 condoms, a metro card stating "Welcome to DC" and a piece of paper with the directions and address provided by "AMANDA".

22. MOSER was transported to the Fairfax County Police Station, where he was interviewed and processed. MOSER waived his rights and provided an oral and written statement. MOSER acknowledged traveling from Washington D.C. to Virginia to meet what he thought was a thirteen year old female in order to fool around, but stated that he had not thought about how far it was going to go even though he brought condoms. MOSER admitted to using the screen name "LOSINGTHEVIEW" and to chatting with "UC-1". MOSER stated that he had sent a picture to "AMANDA" and that she had sent him one as well. MOSER did not want to discuss the content of the chats.

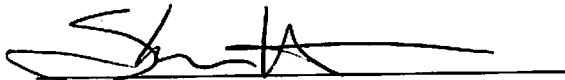
CONCLUSION

23. Under the Code of Virginia, § 18.2-63, it is unlawful to have carnal knowledge of a child between the ages of 13 and 15 years old.

24. Under the Code of Virginia, § 18.2-370, it is unlawful to take indecent liberties with children.

25. Based on the above information, there is probable cause to believe that Title 18 United States Code, Section 2423(b), which makes it a federal crime for any person to travel in interstate commerce with the purpose of engaging in illicit sexual contact with another person whom he believed was under the age of 18, was committed by BENJAMIN TYLER MOSER.

26. Based on the above information, there is also probable cause to believe that Title 18, United States Code, Section 2422(b), which makes it a federal crime for any person to knowingly persuade, induce, entice or coerce any individual who is not yet 18 years of age to engage in any sexual activity for which any person can be charged with a criminal offense, was committed by BENJAMIN TYLER MOSER.



Sharon Huber
Special Agent
Federal Bureau of Investigation

Subscribed and sworn
before me this 19th day of
June 2008.

/s/Thomas Rawles Jones, Jr.

The Honorable T. Rawles Jones
United States Magistrate Judge